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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590

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EXAMINER

FERGUSON, LAWRENCE D

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/786,565

Applicant(s)

MINEO, YUTAKA

Examiner

Lawrence D Ferguson

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1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

**DETAILED ACTION**

***Response to Amendment***

1. This action is in response to the amendment mailed November 12, 2002.

Claims 1-2, 4-5 and 7 were amended rendering claims 1-7 pending.

***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata et al (U.S. 6,111,699) as evidenced by Birk (Chemistry).

4. Iwata discloses a light diffusing film having diffusing materials and resins with a light diffusing layer (column 3, lines 1-5) along with a transparent film substrate (column 3, lines 16-17). Iwata discloses the light transmissive resin having an average particle diameter of 0.1 to 5 micrometers (column 3, lines 25-30) with the light transmissive diffusing material into beads (column 4, lines 3-4). The reference discloses adding an inorganic filler, such as silica (column 8, lines 57-58) having a particle size of 0.5 micrometers or less (500 nm or less). A light diffusing layer 'formed by dispersing resinous beads and a fine inorganic binder' is a product by process claim limitation. .

"Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966. Iwata does not explicitly disclose a colloidal silica. It would have been obvious to one of ordinary skill in the art to recognize the silica of Iwata is a colloid as Birk teaches on page 483, a colloid has a particle size of 2nm to 200nm.

***Claim Rejections – 35 USC § 103(a)***

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata et al (U.S. 6,111,699) as evidenced by Birk (Chemsistry) in view of Kitamura et al. (U.S. 5,900,309).
6. Iwata is relied on for claims 1-3. Iwata does not disclose a backlight with a light source. Kitamura teaches a light diffusing sheet with a transparent substrate having resin particles together with a resin binder with the resin particles dispersed in the sheet (column 1, line 65 through column 2, line 10). The reference teaches a backlight with a light source provided behind a display panel used to display images, where a light diffusing sheet is used for the construction of the backlight (column 1, lines 13-24) where the panel is analogous to a light guiding plate. Iwata and Kitamura are analogous art as they are from the field of light diffusing material. It would have been obvious to

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one of ordinary skill in the art to include the backlight with light source with the light diffusing film of Iwata because Kitamura teaches providing a backlight with a display panel is necessary in order to make the displayed image easily visible (column 1, lines 16-21).

***Claim Rejections – 35 USC § 103(a)***

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata et al (U.S. 6,111,699) as evidenced by Birk (Chemistry) in view of JP 8-227005.

8. Iwata is relied on for claims 1-3. Iwata does not disclose a sticking proof layer provided on a rear surface side of the base sheet. JP '7005 teaches a light diffusion surface on the front surface of a base material sheet and the provision of a sticking prevention layer on the rear side of the base sheet composed of beads and binders (abstract). All of the references are analogous art because they are from the same field of light diffusing material. It would have been obvious to one of ordinary skill in the art to include the sticking-proof layer on the rear of the transparent substrate of Kitamura because JP '7005 teaches the addition of this sticking proof layer helps to increase the luminance of the backlight display screen.

***Response to Arguments***

9. The objection of claim 7 is withdrawn due to the amending of the claim by Applicant. Remarks made in regard to rejection of claims 1-3 and 7 under 35 U.S.C.

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103(a) as being unpatentable over Kitamura et al. (U.S. 5,900,309) in view of JP 07-005305 have been considered but are rendered moot based on grounds of new rejection. Additionally, remarks made in regard to rejection of claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitamura et al. (U.S. 5,900,309) in view of JP 07-005305 further in view of JP 8-227005 are considered moot based on grounds of new rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson  
Examiner  
Art Unit 1774

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